

PLANNING COMMISSION MINUTES

FEBRUARY 15, 2007

PUBLIC HEARING

NEW BUSINESS

DOCKET NO. 9-48-06

(CONTINUED FROM JANUARY 4, 2007 PUBLIC HEARING)

Change in zoning from R-4 and R-5 Single Family Residential to C-1 Commercial, on property located at 4802 Outer Loop and 7701, 7703, 7705 & 7707 Laurel Ridge Rd. (Tax Block 24, Lot 44, Tax Block 2092, Lots 49, 50, 51, and 52), containing 45,500 square feet and being in Metro Louisville.

Owner/Applicant: Ardmore, LLC
W. C. Ridge Jr., Manager
4316 Foeburn Lane
Louisville, KY 40207

Attorney: Bissell Roberts
Bardenwerper, Talbott & Roberts PLLC
8311 Shelbyville Road
Louisville, KY 40222

Engineer/Designer: Mindel, Scott & Associates
c/o Kathy Linares or David Mindel
4545 Bishop Lane
Louisville, KY 40218

Existing Use(s): Vacant
Proposed Use: Bank
Council District: 24 – Madonna Flood
Staff Case Manager: Latondra Jones, Planner II

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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The following spoke in favor of this request:

Bissell Roberts, Bardenwerper, Talbott & Roberts PLLC, 8311 Shelbyville Road, Louisville, KY 40222

David A. Mindel, Mindel Scott & Associates, 4545 Bishop Lane, Louisville, KY 40218

David Hall, 7608 Wolf Pen Ridge Court, Prospect, KY 40059

W. C. Ridge, Jr., 4316 Foeburn Lane, Louisville, KY 40207

The following spoke in opposition:

James Luckett, 7807 Laurel Ridge Road, Louisville, KY

Gerald Oliver, 4517 Sandhill Road, Louisville, KY

The following spoke neither for nor against:

Gerald L. Hogue, 4604 Sandhill Road, Louisville, KY

Agency Personnel:

Latondra Jones, Planner II, Planning & Design Services

Paula Wahl, Transportation Planning, Planning and Design Services

AGENCY TESTIMONY:

Latondra Jones said that this hearing was continued in order for the applicant to revise some aspects of the design so that the project would be more compatible with the surrounding neighborhood, and to continue to explore the possibility of a cross-over easement or other connectivity. She said the applicant has provided documentation from Brown-Noltemeyer regarding the connectivity issue. Ms. Jones then briefly showed the Power Point presentation showing maps and photos of the site and the surrounding area. She cited the Outer Loop Corridor Study which does not recommend commercial use for this site. She said there are still compatibility issues (see staff report.)

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Commissioner Carlson asked Ms. Wahl about the crossover access easement between this site and the Brown-Noltmeyer site. He asked if the applicant could be required to provide pavement up to their property line, so that if the Brown-Noltmeyer property is developed at a future time, that access easement would be ready for use. Ms. Wahl said she has proposed binding elements to that effect. Commissioner Carlson asked if the access onto Laurel Ridge should be closed. Ms. Wahl discussed access concerns and issues.

SUMMARY OF TESTIMONY OF PROPONENTS:

Bissell Roberts, attorney for the Applicant, ARDMORE, LLC (hereinafter "ARDMORE"), submitted into the record the Applicant's book of exhibits containing 16 public hearing exhibits for ARDMORE supporting its testimony. Mr. Roberts said he had a copy of the Outer Loop Study and it was dated "April, 1988". David Mindel, another applicant's representative, handed out a booklet to the Commissioners showing design changes. The Applicant also submitted into the record the following exhibits:

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|-----------|---|
| Exhibit 1 | CD of Applicant's PowerPoint presentation |
| Exhibit 2 | Book of Applicant's Exhibits (16 Exhibits) |
| Exhibit 3 | Hard copy of Applicant's PowerPoint presentation |
| Exhibit 4 | Signed copy of proposed Binding Elements |
| Exhibit 5 | Deed of Restrictions for Laurel Ridge subdivision |
| Exhibit 6 | Real Estate Purchase Contracts for various properties located within Laurel Ridge Subdivision |

Regarding the crossover easement issue, Mr. Roberts suggested one change to binding element #13, "At such time as a crossover easement is required between the Ardmore property and the Brownfield Square, the Kentucky Department of Transportation should review the situation. If they suggest closure of the right-hand turn in lane, then the applicant and the bank will agree to that." ARDMORE submitted a letter dated November 17, 2006 from its legal counsel to Brown Noltmeyer Company confirming that Brown Noltmeyer Company was not interested in agreeing to a crossover easement between the subject property and Brownfield Square Shopping Center to the east.

Mr. Roberts said that the property currently is vacant ground. The Applicant's development plan proposes that Lot # 2 will remain as open space. Lot # 2 is zoned R-4. The Applicant requests that Lot #1, as shown on the development

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plan, which consists of 1.04 acres be rezoned from R-4 and R-5 to C-1 Commercial to permit the construction of a proposed 4361 square foot all brick 1st Independence Bank branch bank. The Applicant's plan disclosed the dedication of additional right-of-way along the Outer Loop. The Applicant provided renderings that met all building and site design standards and all that required setbacks were being observed.

Mr. Roberts reviewed the location of the subject property, its current zoning of R-4 and R-5 and the zoning of other nearby properties. He explained that the subject property was in the Neighborhood Form District. The Applicant proved that to the North and East contiguous properties were zoned C-2, i.e., the Jefferson Mall to the North of the property and the Brownfield Square Shopping Center to the East of the subject property. The current owner of the subject property has owned the property for over 30 years and also owns the vacant residential property immediately to the west at the southwest corner of Outer Loop and Laurel Ridge Road. The properties at the southeast and southwest corners of the Outer Loop and Laurel Ridge Road were not subject to the deed restrictions of Laurel Ridge Subdivision. All other properties west of the subject property along the Outer Loop to Preston Highway are primarily zoned C-1, C-2, OR-1, OR-2 and OR-3. Applicant submitted testimony that the adjoining properties to the south are single family residences and are part of Laurel Ridge Subdivision.

In addition to the rezoning request for Lot # 1, the Applicant submitted a request for a landscape waiver filed at the request of Donna Humphrey, the owner of Lot # 53 in Laurel Ridge Subdivision. Ms. Humphrey and the Applicant had both approved a landscaping plan and 6' screen/fence separating the Lot # 1 and the Humphrey property. Donna Humphrey had requested that the height of the screen/fence be reduced from 8 feet to 6 feet to soften the visual impact of the fence which would run parallel to her North property line.

Mr. Roberts said that the Kentucky Department of Transportation had authorized a right turn in and right turn out from the Outer Loop to Lot # 1. The other access to the subject property was from Laurel Ridge Road. Barriers erected across Santa Paula Lane and Sandhill Road at the south boundary of Laurel Ridge Subdivision prevented traffic traveling through Laurel Ridge Subdivision. The only access to and from the subdivision was via Laurel Ridge Road at the Outer Loop.

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Mr. Roberts submitted a signed copy of 12 Binding Elements (Exhibit 4), which had been proposed by the staff of the Planning Commission. Mr. Roberts filed renderings of the front, rear, left and right elevations of the proposed building. The Applicant summarized how the proposed development conformed with the Cornerstone 2020 Comprehensive Plan as set forth in the Applicant's Justification Statement (Tab 14 of Exhibit 2), its proposed Findings of Fact (Tab 15 of Exhibit 2). ARDMORE emphasized that the proposed development conformed with (i) Goals C-3, C-3.2 and C-2.4; (ii) Policies 1, 2, 3, 5, 8, and 9 of Guideline 2; Policies 1, 2, 4, 6, 7, 8, 9, 20, 21, 22, and 23 of Guideline 3; and (iii) Guidelines 1, 2, 2.2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, of the 2020 Comprehensive Plan.

Mr. Roberts noted that the April 1988 Outer Loop Study made a non-binding recommendation that this site be rezoned for Apartments or Offices, that it had never been rezoned in 19 years and that a bank was similar to an Office, but that stand alone banks required Commercial zoning under local regulations.

Mr. Roberts showed photos of the homes and businesses in the surrounding area to support his contention that the bank design is not incompatible with the neighborhood. He said the proposed development is compatible with the scale of residences and the form and functioning of the existing developments in the area and that by furnishing additional right of way, sidewalks, landscaping, tree preservation plans, setbacks, required yards and open spaces the development was compatible to all existing development in the area, and the development conformed to the styled of property generally located in the area.

SUMMARY OF TESTIMONY OF OPPONENTS:

Jim Luckett, a Laurel Ridge resident, discussed the crossover access easement. He said he was told at the time he purchased his home that there would not be any commercial development there. He is concerned because his grandchildren wait for the bus on this corner, and is concerned about traffic.

Gerald Oliver, a Sandhill Road resident, appreciates the redesign of the bank building; however, he is still concerned about traffic problems. He said he purchased his home there because this is a quiet, no-outlet street. He said people still try to cut through their neighborhood, when there is no cut-through access. He said that, since the last meeting, the residents of the Laurel Ridge

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subdivision have not changed their opposition to this rezoning. He said residents might be more accepting of the bank if there were no accesses onto Laurel Ridge Road.

SUMMARY OF TESTIMONY OF INTERESTED PARTIES:

Gerald Hogue, a Sandhill Road resident, discussed the crossover access easement with Brownfield Square.

REBUTTAL:

Mr. Roberts said that, regarding the comments from Mr. Luckett, he had personally spoken to Charlie Brown of Brown-Noltemeyer and asserted that there had never been discussion of exchanging money for the access easement. He said that, contingent upon rezoning of the property to C-1, the applicant would offer to the abutting owners of Lots in Laurel Ridge subdivision the opportunity to purchase portions of Lot # 2 abutting those lots for a modest price, however that offer was contingent upon the Applicant retaining legal access for necessary maintenance from Lot # 1 to any residual portion of Lot # 2 which was not purchased by the abutting owners of Lots in Laurel Ridge subdivision.

Mr. Roberts submitted a rendering of a proposed signature entrance sign and a binding element in which the applicant agreed to erect on ARDMORE's property located on the southwest corner of Outer Loop and Laurel Ridge Road designating the entrance of Laurel Ridge Subdivision.

During deliberation, Commissioner Queenan asked Ms. Wahl to comment on the transportation issue, specifically traffic turning on to Laurel Ridge Road.

Commissioner Ernst wanted a binding element stating that, should the use at this site ever intensify, that the traffic and entrances will be considered at that time. Also, if the connection is made with a crossover access easement, at that time the State will look at the Outer Loop connection and decide if they want to do away with that.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the

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Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the February 18, 2007 proceedings.

Zoning

On a motion by Commissioner Blake, the following resolution was adopted:

WHEREAS, based on the evidence, testimony and the entire record in Docket No. 9-48-06W, all evidence and information submitted in support of the application to rezone and the reports of the staff of the Planning Commission (hereafter the "Commission"), the Commission finds the subject property is adjacent to and immediately south of the Jefferson Mall and adjacent to and immediately west of Brownfield Square Shopping Center. On the north side of the Outer Loop, properties are zoned C-2 for approximately 1,200 feet to the east of the site and approximately for one mile west of the site. On the south side of the Outer Loop to the west and east of the site, for distances of approximately 1,200 feet and 5,000 feet respectively, the properties are zoned predominantly C-2 and C-1 with a mix of properties zoned Office – Residential; and

WHEREAS, the only remaining residential properties on this part of the Outer Loop are the subject property and a few 1960 style houses, which were constructed when the Outer Loop was a two-lane road long before construction of the Jefferson Mall and the other commercial shopping centers and retail centers along this corridor; and

WHEREAS, the subject vacant property is located in a Neighborhood Form District ("NFD") which encourages enhancement of existing neighborhoods to provide safe and healthy places to live where residents share a sense of place and the encouragement of "compatible integration of residential, civic, commercial office and service uses that promotes close to home shopping and service opportunities." The proposed development complies with Goal C3 of the Cornerstone 2020 Comprehensive Plan (hereinafter "Comprehensive Plan") which supports a variety of land uses to serve residents' daily needs that are compatible with the scale and character of the neighborhood. This development conforms to Objective C2.1 because the development's design is compatible with the organization and pattern of development in this NFD. It also conforms to

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Objective C2.3 because it provides compatibility with adjacent form districts and establishes a compatible transition at the edge of the commercial Outer Loop and an adjacent residential development. This development conforms to Objective C2.5 because the streetscape will be a pleasant and safe environment which includes trees, landscaping, sidewalks, and lighting which are attractive and functional. This development conforms to Goal C3.2 because it is for a less intense commercial use which will provide an excellent and quiet buffer for the adjacent residential development which will be screened by a plan acceptable to adjoining neighbors; and

WHEREAS, the proposal protects existing residential neighborhoods from adverse impacts by screening and buffering and it will serve the daily needs of the residents and is compatible in scale and character with nearby neighborhoods, all in conformance with Goal C3 of the Comprehensive Plan. In addition, it conforms to Objective C3.2 (b) by providing a compatible use with adjoining areas by use of spacing, buffering and density control. The proposal conforms with Comprehensive Plan's Goal C2.4 on site design and Objective 4.1 because the development enhances the character of this area through compatible site and building design by using site design standards that are compatible with the organization and patterns of adjoining neighborhoods, by adhering to building height standards in the neighborhood, and by design of condominiums which are compatible with the streetscape and character of adjoining neighborhoods while providing sufficient buffering and screening to mitigate any impact on existing neighborhoods; and

WHEREAS, the Commission finds the proposed use conforms to Guideline 1 of the Comprehensive Plan's elements because The subject property is currently located in the Neighborhood Form Area, which "...is characterized by predominantly residential uses that...blend compatibly into the existing landscape...[T]he Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services...at a scale that is appropriate for nearby neighborhoods."; and

WHEREAS, the Commission further finds that all the properties north and east of the site are in a Regional Center Form District; and

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WHEREAS, the Commission further finds that the proposed Branch Bank is compatible with the Neighborhood Form District because it will consist of a single-story all brick building of a design and scale similar to houses located in the residential subdivision known as Laurel Ridge, which is south of the property. The Applicant and its proposed tenant, 1st Independence Bank, submitted revised renderings of the proposed Branch Bank which gave it a more "residential look" and less "commercial look". The revised renderings included elimination of horizontal stone striping in the exterior brick, the addition of window panes in all windows, arched look on most windows, the addition of windows and a portico on the right elevation of the building next to Laurel Ridge Road, widening of the portico on the north elevation of the building and the softening of the signage on the building. The Branch Bank will form a low intensity use transitioning between the residential area to the south and the Regional Centers to the north and east of the subject property and the mixed Commercial and Office-Residential properties to the west. The masonry building materials on the exterior of the bank building will be attractive so as to blend with and be compatible with the character of the existing nearby commercial land uses, as well as the residential uses on Laurel Ridge Road. The Branch Bank will serve area needs by providing convenient access to area residents and businesses, the Branch Bank will be an appropriate addition to the mixture of predominantly commercial land uses and intensities along the Outer Loop and will support and improve the health and vitality of this area. The Commission finds that the proposed new development will be compatible with the scale, rhythm form and function of existing developments, as well as with the pattern of existing uses and it is compatible with the property surrounding it. The Commission finds that there has been no new residential development on this section of the Outer Loop in nearly forty (40) years. The Applicant believes that approval of this rezoning will preserve and improve identified existing and emerging patterns of development. The Neighborhood Form District recognizes that neighborhood centers with an appropriate scale of retail shops and service businesses providing connectivity by automobile, pedestrians, bicycles and transit is appropriate; and

WHEREAS, the Commission further finds that the application complies with the intent and policies of Guideline 1 of the Comprehensive Plan and the building will be compatible with the character and needs of the area and adjoining properties because the design for the Branch Bank will be traditional and in keeping with the predominant type of design in the general area; because the development will be within the low intensity commercial use; because this proposal will utilize

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attractive building materials, including brick and stone, to ensure that the proposed Branch Bank will have a positive aesthetic appearance; will be compatible with the surrounding buildings; the site will be well landscaped; and because setbacks, tree preservation and landscape buffers around the perimeter of the subject property will mitigate against any adverse impacts the development may cause; and because accessibility and connectivity between adjacent uses for automobile, pedestrian, bicycle and transit users are addressed by provision of sidewalks along Outer Loop and Laurel Ridge Road; and

WHEREAS, the Commission further finds that the application complies with the intent and policies of Guideline 2 of the Comprehensive Plan because the intent and policies of this guideline are, among other things, "to promote efficient use of land and investment in existing infrastructure, . . . to provide for neighborhood centers and marketplaces that includes a diversity of goods and services and that are designed to be assets to the community, to restrict isolated commercial uses in non-commercial areas, and to encourage the vitality and a sense of place in neighborhoods and community."; and

WHEREAS, the Commission finds the proposed Branch Bank complies with the intent of Guideline 2 because it will provide a mix of land uses and diversity of services available at this highly desirable and convenient location at the edge of the Regional Center. The proposed bank will function as a small neighborhood center serving business that is not intense and will generate a minimum of traffic at this location. The Branch Bank will promote shorter commute times for easy access by local residents, thereby reducing transportation related air pollution that might be generated if required to travel a further distance. Utilities are available to the site to which the Applicant will connect, thus reducing public utility costs for infrastructure. The proposed Branch Bank conforms to Guideline 2.2 because it does not create a nuisance and is compatible with the surroundings; and

WHEREAS, the proposed bank complies with the Policies 1, 2 and 3 of Guideline 2 because the site is located on the Outer Loop where commercial centers contain established non-residential uses and the proposed activity center is compatible with adjacent uses and meets the form district guidelines, that the proposed development is of an intensity that is compatible with the neighborhood and there is sufficient population in this area to support the Branch Bank at this site. The policies 5, 8, 9 and 11 of this guideline encourage activity centers at

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locations to reduce traffic congestion and to allow centers for new development in neighborhood districts to serve the day-to-day needs of nearby residents, which areas are designed to minimize impacts on nearby residents with a design that is compatible with nearby residents and where underground utilities are available to serve the proposed project. The Commission finds that Non-residential development within a Neighborhood Form District is appropriate at intersections where at least one of the intersecting streets is classified as collector or above and the corner contains established non-residential uses, such as the Jefferson Mall and this proposal is compatible with Policy 16, which encourages an activity center that is equally accessible by bicycle and pedestrians. In compliance with Policy 28, the signage on the property will be compatible with the form district pattern and will be of a size and height adequate to effectively communicate and be conducive to motor vehicle safety; and

WHEREAS, the Commission further finds that the application specifically complies with Guideline 3 of the Comprehensive Plan because The intent and policies of this guideline are, among other things, "to allow a mixture of land uses and densities near each other as long as they are designed to be compatible with each other, to prohibit the location of sensitive land uses in areas where accepted standards . . . are violated or visual quality is significantly diminished (unless adequate abatement measures are provided), [and] to preserve the character of existing neighborhoods." Policies 1, 2, 4, and 20 seek to ensure that new development is compatible with the scale, design and pattern of existing development and that applicant consider building materials, traffic, parking, and appropriate transitions between uses and neighborhoods that are organized around a center that may contain neighborhood-serving shops, schools, and other uses at important intersections. The subject property lies at the intersection of Outer Loop and Laurel Ridge Road. The proposed Branch Bank complies with the intent and Policies 1, 2, 4 and 20 of Guideline 3 because as stated above, the proposed building will be all brick, one-story, and in scale, and will feature building materials and a design that will blend well with existing nearby commercial and residential uses. The development will provide appropriate transition from non-residential to residential uses and will include buffers and landscaping to mitigate any impact on the residential development to its south; and

WHEREAS, the Commission finds that the Policies 6, 7, 8 and 9 of Guideline 3 seek to encourage to mitigation of traffic, noise, lighting and visual impacts of the

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new development on adjoining property. The proposed Branch Bank as described above will generate a minimum amount of retail traffic and little or no noise. The report of traffic engineer Diane Zimmerman, confirmed by the Metro Works department found that the level of service for vehicular traffic would not change as a result of the construction of the proposed Branch Bank. The lighting, which will be provided for the proposed development will be down-lighting, which will be shielded from all adjoining residential areas. The design of the Branch Bank will be compatible with the residential area and protect it from visual intrusions. Buffering and screening will be provided to mitigate any adverse impact on the residential properties to the south and Policy 12 of this Guideline 3 seeks to ensure that new development is accessible to people with disabilities and the elderly. The proposed Branch Bank facility will easily accommodate those who have difficulties with mobility. The parking spaces for those with handicap licenses will be directly in front of the Branch Bank, thereby reducing the distance to travel from a parking space to the front door of the bank. The proposal is compliant with Policies 21, 22 and 23 of Guideline 3 that require appropriate transitions, buffering and setbacks from adjoining land uses. This site will feature a significant setback from Outer Loop (adhering to "Parkway" requirements), attractive landscaping and setbacks along other property lines and with the Branch Bank facing towards the Outer Loop with the drive-in windows on the east side of the Branch Bank away from all residential property. The layout has been designed to ensure that the proposed center will blend easily with surrounding properties so that it will create no nuisance factors for this community; and

WHEREAS, the Commission finds that the application complies with the intent of Guidelines 4 and 5 and the intent and policies of these guidelines are to ensure well-designed open space that meets community needs and protects natural, scenic and historic resources. The proposed Branch Bank complies with the intent of these guidelines inasmuch as the subject property consists of an in-fill of a long vacant parcel set among other various intensity land uses at the intersection of Outer Loop and Laurel Ridge Road. The neighborhood-serving bank on the south side of Outer Loop will require good planning for efficient access and utilization of available space. Thus, open space has been retained along the Outer Loop Parkway on the north and along the east, west and south property perimeters. Internal landscaping will be utilized throughout the parking areas. No portion of the site has been designated as a natural, scenic or historic

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resource. Moreover, the landscape plan for this center will ensure a positive aesthetic appearance for the property overall; and

WHEREAS, the Commission further finds that the application complies with the intent and policies of Guideline 6 of the Comprehensive Plan because the intent and policies of this guideline seek to “ensure the availability of necessary usable land to facilitate commercial, industrial and residential development, [and] to reduce public and private costs for land development...”, and the proposed Branch Bank facility will re-utilize available, highly accessible and convenient vacant land that is an in-fill location along the Outer Loop, at its intersection with Laurel Ridge Road. It will serve nearby neighborhoods at this important intersection and will allow residents to reduce commuting time to services located farther away. Nearby neighborhoods will find an appropriate and healthy use at this intersection, which will support and preserve a sense of place, support the tax base and neighborhood residents and ensure better sustainability for the overall area, and

WHEREAS, the Commission further finds that the application conforms to Guidelines 7, 8, 9 and 12, because the intent and policies of these guidelines are to provide for safe and proper functioning of the street network that does not exceed carrying capacity of streets, to promote efficient internal and external circulation of all new development, and to ensure transportation facilities that are safe, efficient with attention to air quality and which minimize impacts upon the community that accommodate alternative modes of transportation and the needs of the elderly or handicapped. The proposed Branch Bank complies with the intents of these guidelines by virtue of the fact that the building is well placed at this infill location near an intersection, with efficient, multiple entrance and exit points from either Outer Loop or Laurel Ridge Road, as reflected on the proposed development plan and as explained above. The neighbors at the neighborhood meeting urged the Applicant to request from the Kentucky DOT a right hand turn entrance and exit to and from the property and the Outer Loop. This was accomplished, although the Applicant was unable to despite requesting it to secure a crossover easement to and from Brownfield Square Shopping Center. The application conforms with Guideline 7.6 as a result of Binding Elements, which are agreeable to the Applicant. The proximity of the subject property to area neighborhoods via Laurel Ridge Road and Outer Loop assures that the commuting time will be minimal further reducing traffic related air quality impacts. Sidewalks are provided along Outer Loop and sidewalks are or will be

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provided along Outer Loop and Laurel Ridge Road to ensure accessibility by all modes of transportation, including pedestrian, bicycle and transit riders. Transit service is available in the area. Handicapped parking spaces and safety crosswalks have been provided in accordance with the requirements of the new Land Development Code; and

WHEREAS, the Commission further finds that the application specifically complies with Guidelines 10 and 11 and the intent and policies of these guidelines are to effectively manage stormwater and to prevent the degradation of water quality due to soil erosion. The proposed infrastructure bank/center complies with the intent of this guideline and with the requirements of MSD and the Land Development Code because there shall be no increase in drainage runoff to the Outer Loop right-of-way and all drainage facilities shall conform to MSD requirements. No portion of the site is within the 100-year floodplain and it is anticipated that the overall plan will receive MSD approval. Sanitary sewer service will be provided by connection; and

WHEREAS, the Commission further finds that the application complies with the intent and policies of Guideline 13 of the Comprehensive Plan because the intent and policies of this guideline are to protect and enhance landscape character by protecting woodlands and ensuring appropriate landscape design for different types of land uses. The Land Development Code includes minimum tree canopy requirements that will be met. Also, as noted above, the proposed Branch Bank complies with the intent of this guideline because the landscape plan for the Branch Bank will be designed to include landscaping along the east, west and south property perimeters, along the Parkway setback for Outer Loop, and around the building footprint. Additional landscaping will be implemented via islands in the parking areas in accordance with the Land Development Code. These natural landscaping accents will be attractive and will also serve to reduce impact of activities on adjoining properties. The overall appearance of the Branch Bank will reflect the character of the area and will ensure a positive aesthetic appearance for the center; and

WHEREAS, the Commission finds that the development conforms to the intent and policies of Guideline 14 because the intent and policies of this guideline seek to ensure that the carrying capacity of the land is adequate for proposed development, with effective connections between land use patterns, and that those who proposed new development share in costs of public infrastructure. As

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noted above, the proposed banking facility will provide effective connections between land-use patterns and supporting infrastructure, such as transportation, sewer, water and storm water management systems. The carrying capacity of the land and infrastructure will not be exceeded by this project, which is not an intense use. In accordance with Policies 2, 3, 4 and 6, there are adequate utility services to serve this project, including adequate supply of potable water and water for firefighting purposes, as well as public sewers to serve the site. All the utilities on the site will be underground, thereby eliminating the possibility of nuisances; and

WHEREAS, The Commission finds that the proposal has received preliminary approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Department of Public Works, and the Metropolitan Sewer District; and

WHEREAS, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning **from R-4 and R-5 Single Family Residential to C-1 Commercial** on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Ernst, Storm, Queenan, Blake, and Hamilton.

NO: Commissioner Abstain.

NOT PRESENT: Commissioners Howard and Wells-Hatfield.

ABSTAINING: Commissioner Carlson.

Waiver

On a motion by Commissioner Blake, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested waiver will adversely affect adjoining property owner because the required screening height would more effectively screen the proposed development from adjoining residential; and

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WHEREAS, the Commission further finds that the requested waiver will violate Guidelines 13.4 and 13.6 of the Comprehensive Plan; and

WHEREAS, the Commission further finds that the requested waiver is not the minimum necessary to afford relief to the applicant because the required screening can be provided; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship because the required screening can be provided; and

WHEREAS, The Commission finds that the requested waiver is in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **DENY** the requested waiver of Section 10.2.4 of the LDC to reduce the height of the required landscaping screen adjacent to residential from 8 feet to 6 feet.

The vote was as follows:

YES: Commissioners Ernst, Carlson, Storm, Abstain, Queenan, Blake, and Hamilton.

NO: No one.

NOT PRESENT: Commissioners Howard and Wells-Hatfield.

ABSTAINING: No one.

Development Plan

On a motion by Commissioner Blake, the following resolution was adopted:

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RESOLVED, That the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan for Docket No. 9-48-06, subject to the following binding elements.

Binding Elements

1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.
2. Use of the subject site shall be limited to a bank and other uses permitted in the C-1 zoning district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission or its designee. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
3. The Floor Area Ratio of the development shall not exceed 0.1.
4. Signs shall be in accordance with Chapter 8 of the LDC.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
7. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):

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- a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat shall be recorded creating the property lines per the development plan.
8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 15, 2007 Public Hearing.
11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits

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shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

12. Street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
13. A crossover easement/agreement with the adjacent properties to the East and South, in a form acceptable to the Planning Commission legal counsel, shall be created and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument. The Applicant further agrees to construct the easement/agreement area(s) up to the common property line.
14. Upon development or redevelopment of adjacent properties to the East, a unified access and circulation system shall be developed to eliminate the right-in/right-out curb cut on Outer Loop (and restore area as required), if determined by KTC and Metro Public Works, and provide for vehicular movement throughout adjacent sites as determined appropriate by Planning Commission and/or Transportation. If determined necessary by Planning Commission legal counsel, at such time as the adjacent properties to the East are developed/redeveloped, a reciprocal access and crossover easement/agreement between adjacent property owners, to run with the land, and in a form acceptable to Planning Commission legal counsel, shall be entered into.
15. The applicant shall install signage as directed by Louisville Metro Public Works Transportation Planning, to discourage any turning from the bank parking lot onto Laurel Ridge Road.
16. The plan shall be revised to reflect the future crossover point.

The vote was as follows:

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YES: Commissioners Ernst, Storm, Queenan, Blake, and Hamilton.

NO: Commissioner Abstain.

NOT PRESENT: Commissioners Howard and Wells-Hatfield.

ABSTAINING: Commissioner Carlson.